

November 5, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-20427
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

NHAN KIEM (TONY) TRAN, also known as Tony Tran,
also known as Larry Tran,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-89-CR-135-2

Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Nhan Kiem Tran ("Tran"), federal prisoner # 48684-079, appeals the district court's denial of his 18 U.S.C. § 3582 motion to reduce his sentence based on amendment 640 to the sentencing guidelines.

Amendment 640 to U.S.S.G. § 2D1.1(a)(3) is not listed in U.S.S.G. § 1B1.10(c). Therefore, this amendment may not be applied retroactively to reduce Tran's sentence. See United

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

States v. Drath, 89 F.3d 216, 217-18 (5th Cir. 1996). Tran has not shown that the court abused its discretion in denying his motion for a modification of sentence. The judgment of the district court is AFFIRMED.